

1 A bill to be entitled
2 An act relating to public-private partnerships;
3 transferring, renumbering, and amending s. 287.05712,
4 F.S.; revising definitions; deleting provisions
5 creating the Public-Private Partnership Guidelines
6 Task Force; requiring a private entity that submits an
7 unsolicited proposal to pay an initial application fee
8 and additional amounts if the fee does not cover
9 certain costs; specifying payment methods; requiring a
10 responsible public entity to contract with certain
11 licensed professionals if such entity evaluates
12 specific unsolicited proposals; authorizing a
13 responsible public entity to alter the statutory
14 timeframe for accepting proposals for a qualifying
15 project under certain circumstances; requiring a
16 design criteria package prepared by designated persons
17 to be submitted to a responsible public entity if such
18 entity solicits specific proposals; providing for the
19 retention of certain licensed professionals by the
20 responsible public entity for a specified period;
21 deleting a provision that requires approval of the
22 local governing body before a school board enters into
23 a comprehensive agreement; revising the conditions
24 necessary for a responsible public entity to approve a
25 comprehensive agreement; deleting provisions relating
26 to notice to affected local jurisdictions; providing

27 | that fees imposed by a private entity must be applied
 28 | as set forth in the comprehensive agreement;
 29 | authorizing a negotiated portion of revenues from fee-
 30 | generating uses to be returned to the responsible
 31 | public entity; restricting provisions in financing
 32 | agreements that could result in a responsible public
 33 | entity's losing ownership of real or tangible personal
 34 | property; deleting a provision that required a
 35 | responsible public entity to comply with specific
 36 | financial obligations; providing duties of the
 37 | Department of Management Services relating to
 38 | comprehensive agreements; revising provisions relating
 39 | to construction of the act; providing an effective
 40 | date.

41 |

42 | Be It Enacted by the Legislature of the State of Florida:

43 |

44 | Section 1. Section 287.05712, Florida Statutes, is
 45 | transferred, renumbered as section 255.065, Florida Statutes,
 46 | and amended to read:

47 | 255.065 ~~287.05712~~ Public-private partnerships.—

48 | (1) DEFINITIONS.—As used in this section, the term:

49 | (a) "Affected local jurisdiction" means a county,
 50 | municipality, or special district in which all or a portion of a
 51 | qualifying project is located.

52 | (b) "Develop" means to plan, design, finance, lease,

53 acquire, install, construct, or expand.

54 (c) "Fees" means charges imposed by the private entity of
55 a qualifying project for use of all or a portion of such
56 qualifying project pursuant to a comprehensive agreement.

57 (d) "Lease payment" means any form of payment, including a
58 land lease, by a public entity to the private entity of a
59 qualifying project for the use of the project.

60 (e) "Material default" means a nonperformance of its
61 duties by the private entity of a qualifying project which
62 jeopardizes adequate service to the public from the project.

63 (f) "Operate" means to finance, maintain, improve, equip,
64 modify, or repair.

65 (g) "Private entity" means any natural person,
66 corporation, general partnership, limited liability company,
67 limited partnership, joint venture, business trust, public
68 benefit corporation, nonprofit entity, or other private business
69 entity.

70 (h) "Proposal" means a plan for a qualifying project with
71 detail beyond a conceptual level for which terms such as fixing
72 costs, payment schedules, financing, deliverables, and project
73 schedule are defined.

74 (i) "Qualifying project" means:

75 1. A facility or project that serves a public purpose,
76 including, but not limited to, any ferry or mass transit
77 facility, vehicle parking facility, airport or seaport facility,
78 rail facility or project, fuel supply facility, oil or gas

79 pipeline, medical or nursing care facility, recreational
 80 facility, sporting or cultural facility, or educational facility
 81 or other building or facility that is used or will be used by a
 82 public educational institution, or any other public facility or
 83 infrastructure that is used or will be used by the public at
 84 large or in support of an accepted public purpose or activity;

85 2. An improvement, including equipment, of a building that
 86 will be principally used by a public entity or the public at
 87 large or that supports a service delivery system in the public
 88 sector;

89 3. A water, wastewater, or surface water management
 90 facility or other related infrastructure; or

91 4. Notwithstanding any provision of this section, for
 92 projects that involve a facility owned or operated by the
 93 governing board of a county, district, or municipal hospital or
 94 health care system, or projects that involve a facility owned or
 95 operated by a municipal electric utility, only those projects
 96 that the governing board designates as qualifying projects
 97 pursuant to this section.

98 (j) "Responsible public entity" means a county,
 99 municipality, school district, special district ~~board~~, or any
 100 other political subdivision of the state; a public body
 101 corporate and politic; or a regional entity that serves a public
 102 purpose and is authorized to develop or operate a qualifying
 103 project.

104 (k) "Revenues" means the income, earnings, user fees,

105 | lease payments, or other service payments relating to the
106 | development or operation of a qualifying project, including, but
107 | not limited to, money received as grants or otherwise from the
108 | Federal Government, a public entity, or an agency or
109 | instrumentality thereof in aid of the qualifying project.

110 | (1) "Service contract" means a contract between a
111 | responsible public entity and the private entity which defines
112 | the terms of the services to be provided with respect to a
113 | qualifying project.

114 | (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
115 | that there is a public need for the construction or upgrade of
116 | facilities that are used predominantly for public purposes and
117 | that it is in the public's interest to provide for the
118 | construction or upgrade of such facilities.

119 | (a) The Legislature also finds that:

120 | 1. There is a public need for timely and cost-effective
121 | acquisition, design, construction, improvement, renovation,
122 | expansion, equipping, maintenance, operation, implementation, or
123 | installation of projects serving a public purpose, including
124 | educational facilities, transportation facilities, water or
125 | wastewater management facilities and infrastructure, technology
126 | infrastructure, roads, highways, bridges, and other public
127 | infrastructure and government facilities within the state which
128 | serve a public need and purpose, and that such public need may
129 | not be wholly satisfied by existing procurement methods.

130 | 2. There are inadequate resources to develop new

131 educational facilities, transportation facilities, water or
132 wastewater management facilities and infrastructure, technology
133 infrastructure, roads, highways, bridges, and other public
134 infrastructure and government facilities for the benefit of
135 residents of this state, and that a public-private partnership
136 has demonstrated that it can meet the needs by improving the
137 schedule for delivery, lowering the cost, and providing other
138 benefits to the public.

139 3. There may be state and federal tax incentives that
140 promote partnerships between public and private entities to
141 develop and operate qualifying projects.

142 4. A procurement under this section serves the public
143 purpose of this section if such procurement facilitates the
144 timely development or operation of a qualifying project.

145 (b) It is the intent of the Legislature to encourage
146 investment in the state by private entities; to facilitate
147 various bond financing mechanisms, private capital, and other
148 funding sources for the development and operation of qualifying
149 projects, including expansion and acceleration of such financing
150 to meet the public need; and to provide the greatest possible
151 flexibility to public and private entities contracting for the
152 provision of public services.

153 ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.—~~

154 ~~(a) There is created the Partnership for Public Facilities~~
155 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~
156 ~~recommending guidelines for the Legislature to consider for~~

157 ~~purposes of creating a uniform process for establishing public-~~
158 ~~private partnerships, including the types of factors responsible~~
159 ~~public entities should review and consider when processing~~
160 ~~requests for public-private partnership projects pursuant to~~
161 ~~this section.~~

162 ~~(b) The task force shall be composed of seven members, as~~
163 ~~follows:~~

164 ~~1. The Secretary of Management Services or his or her~~
165 ~~designee, who shall serve as chair of the task force.~~

166 ~~2. Six members appointed by the Governor, as follows:~~

167 ~~a. One county government official.~~

168 ~~b. One municipal government official.~~

169 ~~c. One district school board member.~~

170 ~~d. Three representatives of the business community.~~

171 ~~(c) Task force members must be appointed by July 31, 2013.~~

172 ~~By August 31, 2013, the task force shall meet to establish~~
173 ~~procedures for the conduct of its business and to elect a vice~~
174 ~~chair. The task force shall meet at the call of the chair. A~~
175 ~~majority of the members of the task force constitutes a quorum,~~
176 ~~and a quorum is necessary for the purpose of voting on any~~
177 ~~action or recommendation of the task force. All meetings shall~~
178 ~~be held in Tallahassee, unless otherwise decided by the task~~
179 ~~force, and then no more than two such meetings may be held in~~
180 ~~other locations for the purpose of taking public testimony.~~
181 ~~Administrative and technical support shall be provided by the~~
182 ~~department. Task force members shall serve without compensation~~

183 ~~and are not entitled to reimbursement for per diem or travel~~
184 ~~expenses.~~

185 ~~(d) In reviewing public private partnerships and~~
186 ~~developing recommendations, the task force must consider:~~

187 ~~1. Opportunities for competition through public notice and~~
188 ~~the availability of representatives of the responsible public~~
189 ~~entity to meet with private entities considering a proposal.~~

190 ~~2. Reasonable criteria for choosing among competing~~
191 ~~proposals.~~

192 ~~3. Suggested timelines for selecting proposals and~~
193 ~~negotiating an interim or comprehensive agreement.~~

194 ~~4. If an accelerated selection and review and~~
195 ~~documentation timelines should be considered for proposals~~
196 ~~involving a qualifying project that the responsible public~~
197 ~~entity deems a priority.~~

198 ~~5. Procedures for financial review and analysis which, at~~
199 ~~a minimum, include a cost-benefit analysis, an assessment of~~
200 ~~opportunity cost, and consideration of the results of all~~
201 ~~studies and analyses related to the proposed qualifying project.~~

202 ~~6. The adequacy of the information released when seeking~~
203 ~~competing proposals and providing for the enhancement of that~~
204 ~~information, if deemed necessary, to encourage competition.~~

205 ~~7. Current exemptions from public records and public~~
206 ~~meetings requirements, if any changes to those exemptions are~~
207 ~~necessary, or if any new exemptions should be created in order~~
208 ~~to maintain the confidentiality of financial and proprietary~~

209 ~~information received as part of an unsolicited proposal.~~

210 ~~8. Recommendations regarding the authority of the~~
211 ~~responsible public entity to engage the services of qualified~~
212 ~~professionals, which may include a Florida-registered~~
213 ~~professional or a certified public accountant, not otherwise~~
214 ~~employed by the responsible public entity, to provide an~~
215 ~~independent analysis regarding the specifics, advantages,~~
216 ~~disadvantages, and long-term and short-term costs of a request~~
217 ~~by a private entity for approval of a qualifying project, unless~~
218 ~~the governing body of the public entity determines that such~~
219 ~~analysis should be performed by employees of the public entity.~~

220 ~~(c) The task force must submit a final report of its~~
221 ~~recommendations to the Governor, the President of the Senate,~~
222 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

223 ~~(f) The task force is terminated December 31, 2014. The~~
224 ~~establishment of guidelines pursuant to this section or the~~
225 ~~adoption of such guidelines by a responsible public entity is~~
226 ~~not required for such entity to request or receive proposals for~~
227 ~~a qualifying project or to enter into a comprehensive agreement~~
228 ~~for a qualifying project. A responsible public entity may adopt~~
229 ~~guidelines so long as such guidelines are not inconsistent with~~
230 ~~this section.~~

231 (3) ~~(4)~~ PROCUREMENT PROCEDURES.—A responsible public entity
232 may receive unsolicited proposals or may solicit proposals for a
233 qualifying project ~~projects~~ and may thereafter enter into a
234 comprehensive ~~an~~ agreement with a private entity, or a

235 consortium of private entities, for the building, upgrading,
236 operating, ownership, or financing of facilities.

237 (a)1. The responsible public entity may establish a
238 reasonable application fee for the submission of an unsolicited
239 proposal under this section.

240 2. A private entity that submits an unsolicited proposal
241 to a responsible public entity must concurrently pay an initial
242 application fee, as determined by the responsible public entity.
243 Payment must be made by cash, cashier's check, or other
244 noncancelable instrument. Personal checks may not be accepted.

245 3. If the initial application fee does not cover the
246 responsible public entity's costs to evaluate the unsolicited
247 proposal, the responsible public entity must request in writing
248 the additional amounts required. The private entity must pay the
249 requested additional amounts within 30 days after receipt of the
250 notice. The responsible public entity may stop its review of the
251 unsolicited proposal if the private entity fails to pay the
252 additional amounts.

253 4. If the responsible public entity does not evaluate the
254 unsolicited proposal, the responsible public entity must return
255 the application fee ~~The fee must be sufficient to pay the costs~~
256 ~~of evaluating the proposal. The responsible public entity may~~
257 ~~engage the services of a private consultant to assist in the~~
258 ~~evaluation.~~

259 5. If the responsible public entity evaluates an
260 unsolicited proposal involving architecture, engineering, or

261 landscape architecture, the responsible public entity must
262 require an architect, an engineer, or a landscape architect
263 licensed in this state and qualified to perform the review, to
264 review and evaluate the design and construction proposed by the
265 initial or subsequent proposers to ensure that material quality
266 standards, interior space utilization, budget estimates, design
267 and construction schedules, and sustainable design and
268 construction standards are consistent with the requirements for
269 public projects. The licensed professional who reviews and
270 evaluates the unsolicited proposal shall be retained to advise
271 the responsible public entity through completion of the design
272 and construction of the qualifying project.

273 (b) The responsible public entity may request a proposal
274 from private entities for a qualifying ~~public-private~~ project
275 or, if the responsible public entity receives an unsolicited
276 proposal for a qualifying ~~public-private~~ project and the
277 responsible public entity intends to enter into a comprehensive
278 agreement for the project described in the ~~such~~ unsolicited
279 proposal, the responsible public entity shall publish notice in
280 the Florida Administrative Register and a newspaper of general
281 circulation at least once a week for 2 weeks stating that the
282 responsible public entity has received a proposal and will
283 accept other proposals for the same project. The timeframe
284 within which the responsible public entity may accept other
285 proposals shall be determined by the responsible public entity
286 on a project-by-project basis based upon the complexity of the

287 qualifying project and the public benefit to be gained by
288 allowing a longer or shorter period of time within which other
289 proposals may be received; however, the timeframe for allowing
290 other proposals must be at least 21 days, but no more than 120
291 days, after the initial date of publication. If approved by a
292 majority vote of the responsible public entity's governing body,
293 the responsible public entity may alter the timeframe for
294 accepting proposals to more adequately suit the needs of the
295 qualifying project. A copy of the notice must be mailed to each
296 local government in the affected area.

297 (c) If the solicited qualifying project provided in
298 paragraph (b) includes design work, the solicitation must
299 include a design criteria package prepared by an architect, an
300 engineer, or a landscape architect licensed in this state which
301 is sufficient to allow private entities to prepare a bid or a
302 response. The design criteria package must provide reasonably
303 specific criteria for the qualifying project, such as the legal
304 description of the site, with survey information; interior space
305 requirements; material quality standards; schematic layouts and
306 conceptual design criteria for the qualifying project; cost or
307 budget estimates; design and construction schedules; and site
308 development and utility requirements. The licensed design
309 professional who prepares the design criteria package shall be
310 retained to advise the responsible public entity through
311 completion of the design and construction of the qualifying
312 project ~~A responsible public entity that is a school board may~~

313 ~~enter into a comprehensive agreement only with the approval of~~
314 ~~the local governing body.~~

315 (d) Before approving a comprehensive agreement ~~approval~~,
316 the responsible public entity must determine that the proposed
317 project:

318 1. Is in the public's best interest.

319 2. Is for a facility that is owned by the responsible
320 public entity or for a facility for which ownership will be
321 conveyed to the responsible public entity.

322 3. Has adequate safeguards in place to ensure that
323 additional costs or service disruptions are not imposed on the
324 public in the event of material default or cancellation of the
325 comprehensive agreement by the responsible public entity.

326 4. Has adequate safeguards in place to ensure that the
327 responsible public entity or private entity has the opportunity
328 to add capacity to the proposed project or other facilities
329 serving similar predominantly public purposes.

330 5. Will be owned by the responsible public entity upon
331 completion, expiration, or termination of the comprehensive
332 agreement and upon payment of the amounts financed.

333 (e) Before signing a comprehensive agreement, the
334 responsible public entity must consider a reasonable finance
335 plan that is consistent with subsection (9) ~~(11)~~; the qualifying
336 project cost; revenues by source; available financing; major
337 assumptions; internal rate of return on private investments, if
338 governmental funds are assumed in order to deliver a cost-

339 feasible project; and a total cash-flow analysis beginning with
340 the implementation of the project and extending for the term of
341 the comprehensive agreement.

342 (f) In considering an unsolicited proposal, the
343 responsible public entity may require from the private entity a
344 technical study prepared by a nationally recognized expert with
345 experience in preparing analysis for bond rating agencies. In
346 evaluating the technical study, the responsible public entity
347 may rely upon internal staff reports prepared by personnel
348 familiar with the operation of similar facilities or the advice
349 of external advisors or consultants who have relevant
350 experience.

351 (4)~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited
352 proposal from a private entity for approval of a qualifying
353 project must be accompanied by the following material and
354 information, unless waived by the responsible public entity:

355 (a) A description of the qualifying project, including the
356 conceptual design of the facilities or a conceptual plan for the
357 provision of services, and a schedule for the initiation and
358 completion of the qualifying project.

359 (b) A description of the method by which the private
360 entity proposes to secure the necessary property interests that
361 are required for the qualifying project.

362 (c) A description of the private entity's general plans
363 for financing the qualifying project, including the sources of
364 the private entity's funds and the identity of any dedicated

365 revenue source or proposed debt or equity investment on behalf
 366 of the private entity.

367 (d) The name and address of a person who may be contacted
 368 for additional information concerning the proposal.

369 (e) The proposed user fees, lease payments, or other
 370 service payments over the term of a comprehensive agreement, and
 371 the methodology for and circumstances that would allow changes
 372 to the user fees, lease payments, and other service payments
 373 over time.

374 (f) Additional material or information that the
 375 responsible public entity reasonably requests.

376

377 Any pricing or financial terms included in an unsolicited
 378 proposal must be specific as to when the pricing or terms
 379 expire.

380 ~~(5)(6)~~ PROJECT QUALIFICATION AND PROCESS.—

381 (a) The private entity, or the applicable party or parties
 382 of the private entity's team, must meet the minimum standards
 383 contained in the responsible public entity's guidelines for
 384 qualifying professional services and contracts for traditional
 385 procurement projects.

386 (b) The responsible public entity must:

387 1. Ensure that provision is made for the private entity's
 388 performance and payment of subcontractors, including, but not
 389 limited to, surety bonds, letters of credit, parent company
 390 guarantees, and lender and equity partner guarantees. For the

391 components of the qualifying project which involve construction
392 performance and payment, bonds are required and are subject to
393 the recordation, notice, suit limitation, and other requirements
394 of s. 255.05.

395 2. Ensure the most efficient pricing of the security
396 package that provides for the performance and payment of
397 subcontractors.

398 3. Ensure that ~~provision is made for the transfer of the~~
399 ~~private entity's obligations if the comprehensive agreement~~
400 addresses termination upon is terminated or a material default
401 of the comprehensive agreement occurs.

402 (c) After the public notification period has expired in
403 the case of an unsolicited proposal, the responsible public
404 entity shall rank the proposals received in order of preference.
405 In ranking the proposals, the responsible public entity may
406 consider factors that include, but are not limited to,
407 professional qualifications, general business terms, innovative
408 design techniques or cost-reduction terms, and finance plans.
409 The responsible public entity may then begin negotiations for a
410 comprehensive agreement with the highest-ranked firm. If the
411 responsible public entity is not satisfied with the results of
412 the negotiations, the responsible public entity may terminate
413 negotiations with the proposer and negotiate with the second-
414 ranked or subsequent-ranked firms, in the order consistent with
415 this procedure. If only one proposal is received, the
416 responsible public entity may negotiate in good faith, and if

417 the responsible public entity is not satisfied with the results
418 of the negotiations, the responsible public entity may terminate
419 negotiations with the proposer. Notwithstanding this paragraph,
420 the responsible public entity may reject all proposals at any
421 point in the process until a contract with the proposer is
422 executed.

423 (d) The responsible public entity shall perform an
424 independent analysis of the proposed public-private partnership
425 which demonstrates the cost-effectiveness and overall public
426 benefit before the procurement process is initiated or before
427 the contract is awarded.

428 (e) The responsible public entity may approve the
429 development or operation of an educational facility, a
430 transportation facility, a water or wastewater management
431 facility or related infrastructure, a technology infrastructure
432 or other public infrastructure, or a government facility needed
433 by the responsible public entity as a qualifying project, or the
434 design or equipping of a qualifying project that is developed or
435 operated, if:

436 1. There is a public need for or benefit derived from a
437 project of the type that the private entity proposes as the
438 qualifying project.

439 2. The estimated cost of the qualifying project is
440 reasonable in relation to similar facilities.

441 3. The private entity's plans will result in the timely
442 acquisition, design, construction, improvement, renovation,

443 expansion, equipping, maintenance, or operation of the
444 qualifying project.

445 (f) The responsible public entity may charge a reasonable
446 fee to cover the costs of processing, reviewing, and evaluating
447 the request, including, but not limited to, reasonable attorney
448 fees and fees for financial and technical advisors or
449 consultants and for other necessary advisors or consultants.

450 (g) Upon approval of a qualifying project, the responsible
451 public entity shall establish a date for the commencement of
452 activities related to the qualifying project. The responsible
453 public entity may extend the commencement date.

454 (h) Approval of a qualifying project by the responsible
455 public entity is subject to entering into a comprehensive
456 agreement with the private entity.

457 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—~~

458 ~~(a) The responsible public entity must notify each~~
459 ~~affected local jurisdiction by furnishing a copy of the proposal~~
460 ~~to each affected local jurisdiction when considering a proposal~~
461 ~~for a qualifying project.~~

462 ~~(b) Each affected local jurisdiction that is not a~~
463 ~~responsible public entity for the respective qualifying project~~
464 ~~may, within 60 days after receiving the notice, submit in~~
465 ~~writing any comments to the responsible public entity and~~
466 ~~indicate whether the facility is incompatible with the local~~
467 ~~comprehensive plan, the local infrastructure development plan,~~
468 ~~the capital improvements budget, any development of regional~~

469 ~~impact processes or timelines, or other governmental spending~~
470 ~~plan. The responsible public entity shall consider the comments~~
471 ~~of the affected local jurisdiction before entering into a~~
472 ~~comprehensive agreement with a private entity. If an affected~~
473 ~~local jurisdiction fails to respond to the responsible public~~
474 ~~entity within the time provided in this paragraph, the~~
475 ~~nonresponse is deemed an acknowledgment by the affected local~~
476 ~~jurisdiction that the qualifying project is compatible with the~~
477 ~~local comprehensive plan, the local infrastructure development~~
478 ~~plan, the capital improvements budget, or other governmental~~
479 ~~spending plan.~~

480 (6)~~(8)~~ INTERIM AGREEMENT.—Before or in connection with the
481 negotiation of a comprehensive agreement, the responsible public
482 entity may enter into an interim agreement with the private
483 entity proposing the development or operation of the qualifying
484 project. An interim agreement does not obligate the responsible
485 public entity to enter into a comprehensive agreement. The
486 interim agreement is discretionary with the parties and is not
487 required on a qualifying project for which the parties may
488 proceed directly to a comprehensive agreement without the need
489 for an interim agreement. An interim agreement must be limited
490 to provisions that:

491 (a) Authorize the private entity to commence activities
492 for which it may be compensated related to the proposed
493 qualifying project, including, but not limited to, project
494 planning and development, design, environmental analysis and

495 mitigation, survey, other activities concerning any part of the
496 proposed qualifying project, and ascertaining the availability
497 of financing for the proposed facility or facilities.

498 (b) Establish the process and timing of the negotiation of
499 the comprehensive agreement.

500 (c) Contain such other provisions related to an aspect of
501 the development or operation of a qualifying project that the
502 responsible public entity and the private entity deem
503 appropriate.

504 (7)~~(9)~~ COMPREHENSIVE AGREEMENT.-

505 (a) Before developing or operating the qualifying project,
506 the private entity must enter into a comprehensive agreement
507 with the responsible public entity. The comprehensive agreement
508 must provide for:

509 1. Delivery of performance and payment bonds, letters of
510 credit, or other security acceptable to the responsible public
511 entity in connection with the development or operation of the
512 qualifying project in the form and amount satisfactory to the
513 responsible public entity. For the components of the qualifying
514 project which involve construction, the form and amount of the
515 bonds must comply with s. 255.05.

516 2. Review of the design for the qualifying project by the
517 responsible public entity and, if the design conforms to
518 standards acceptable to the responsible public entity, the
519 approval of the responsible public entity. This subparagraph
520 does not require the private entity to complete the design of

521 the qualifying project before the execution of the comprehensive
522 agreement.

523 3. Inspection of the qualifying project by the responsible
524 public entity to ensure that the private entity's activities are
525 acceptable to the responsible public entity in accordance with
526 the comprehensive agreement.

527 4. Maintenance of a policy of public liability insurance,
528 a copy of which must be filed with the responsible public entity
529 and accompanied by proofs of coverage, or self-insurance, each
530 in the form and amount satisfactory to the responsible public
531 entity and reasonably sufficient to ensure coverage of tort
532 liability to the public and employees and to enable the
533 continued operation of the qualifying project.

534 5. Monitoring by the responsible public entity of the
535 maintenance practices to be performed by the private entity to
536 ensure that the qualifying project is properly maintained.

537 6. Periodic filing by the private entity of the
538 appropriate financial statements that pertain to the qualifying
539 project.

540 7. Procedures that govern the rights and responsibilities
541 of the responsible public entity and the private entity in the
542 course of the construction and operation of the qualifying
543 project and in the event of the termination of the comprehensive
544 agreement or a material default by the private entity. The
545 procedures must include conditions that govern the assumption of
546 the duties and responsibilities of the private entity by an

547 | entity that funded, in whole or part, the qualifying project or
548 | by the responsible public entity, and must provide for the
549 | transfer or purchase of property or other interests of the
550 | private entity by the responsible public entity.

551 | 8. Fees, lease payments, or service payments. In
552 | negotiating user fees, the fees must be the same for persons
553 | using the facility under like conditions and must not materially
554 | discourage use of the qualifying project. The execution of the
555 | comprehensive agreement or a subsequent amendment is conclusive
556 | evidence that the fees, lease payments, or service payments
557 | provided for in the comprehensive agreement comply with this
558 | section. Fees or lease payments established in the comprehensive
559 | agreement as a source of revenue may be in addition to, or in
560 | lieu of, service payments.

561 | 9. Duties of the private entity, including the terms and
562 | conditions that the responsible public entity determines serve
563 | the public purpose of this section.

564 | (b) The comprehensive agreement may include:

565 | 1. An agreement by the responsible public entity to make
566 | grants or loans to the private entity from amounts received from
567 | the federal, state, or local government or an agency or
568 | instrumentality thereof.

569 | 2. A provision under which each entity agrees to provide
570 | notice of default and cure rights for the benefit of the other
571 | entity, including, but not limited to, a provision regarding
572 | unavoidable delays.

573 3. A provision that terminates the authority and duties of
574 the private entity under this section and dedicates the
575 qualifying project to the responsible public entity or, if the
576 qualifying project was initially dedicated by an affected local
577 jurisdiction, to the affected local jurisdiction for public use.

578 (8) ~~(10)~~ FEES.—A comprehensive ~~An~~ agreement entered into
579 pursuant to this section may authorize the private entity to
580 impose fees to members of the public for the use of the
581 facility. The following provisions apply to the comprehensive
582 agreement:

583 (a) The responsible public entity may develop new
584 facilities or increase capacity in existing facilities through a
585 comprehensive agreement with a private entity ~~agreements with~~
586 ~~public-private partnerships~~.

587 (b) The comprehensive ~~public-private partnership~~ agreement
588 must ensure that the facility is properly operated, maintained,
589 or improved in accordance with standards set forth in the
590 comprehensive agreement.

591 (c) The responsible public entity may lease existing fee-
592 for-use facilities through a comprehensive ~~public-private~~
593 ~~partnership~~ agreement.

594 (d) Any revenues must be authorized by and applied in the
595 manner set forth in ~~regulated by the responsible public entity~~
596 ~~pursuant to~~ the comprehensive agreement.

597 (e) A negotiated portion of revenues from fee-generating
598 uses may ~~must~~ be returned to the responsible public entity over

599 the life of the comprehensive agreement.

600 (9)~~(11)~~ FINANCING.—

601 (a) A private entity may enter into a private-source
602 financing agreement between financing sources and the private
603 entity. A financing agreement and any liens on the property or
604 facility must be paid in full at the applicable closing that
605 transfers ownership or operation of the facility to the
606 responsible public entity at the conclusion of the term of the
607 comprehensive agreement.

608 (b) The responsible public entity may lend funds to
609 private entities that construct projects containing facilities
610 that are approved under this section.

611 (c) The responsible public entity may use innovative
612 finance techniques associated with a public-private partnership
613 under this section, including, but not limited to, federal loans
614 as provided in Titles 23 and 49 C.F.R., commercial bank loans,
615 and hedges against inflation from commercial banks or other
616 private sources. In addition, the responsible public entity may
617 provide its own capital or operating budget to support a
618 qualifying project. The budget may be from any legally
619 permissible funding sources of the responsible public entity,
620 including the proceeds of debt issuances. A responsible public
621 entity may use the model financing agreement provided in s.
622 489.145(6) for its financing of a facility owned by a
623 responsible public entity. A financing agreement may not require
624 the responsible public entity to indemnify the financing source,

625 subject the responsible public entity's facility to liens in
626 violation of s. 11.066(5), or secure financing of ~~by~~ the
627 responsible public entity by a mortgage on, or security interest
628 in, the real or tangible personal property of the responsible
629 public entity in a manner that could result in the loss of the
630 fee ownership of the property by the responsible public entity
631 ~~with a pledge of security interest~~, and any such provision is
632 void.

633 ~~(d) A responsible public entity shall appropriate on a~~
634 ~~priority basis as required by the comprehensive agreement a~~
635 ~~contractual payment obligation, annual or otherwise, from the~~
636 ~~enterprise or other government fund from which the qualifying~~
637 ~~projects will be funded. This required payment obligation must~~
638 ~~be appropriated before other noncontractual obligations payable~~
639 ~~from the same enterprise or other government fund.~~

640 (10) ~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

641 (a) The private entity shall:

642 1. Develop or operate the qualifying project in a manner
643 that is acceptable to the responsible public entity in
644 accordance with the provisions of the comprehensive agreement.

645 2. Maintain, or provide by contract for the maintenance or
646 improvement of, the qualifying project if required by the
647 comprehensive agreement.

648 3. Cooperate with the responsible public entity in making
649 best efforts to establish interconnection between the qualifying
650 project and any other facility or infrastructure as requested by

651 the responsible public entity in accordance with the provisions
652 of the comprehensive agreement.

653 4. Comply with the comprehensive agreement and any lease
654 or service contract.

655 (b) Each private facility that is constructed pursuant to
656 this section must comply with the requirements of federal,
657 state, and local laws; state, regional, and local comprehensive
658 plans; the responsible public entity's rules, procedures, and
659 standards for facilities; and such other conditions that the
660 responsible public entity determines to be in the public's best
661 interest and that are included in the comprehensive agreement.

662 (c) The responsible public entity may provide services to
663 the private entity. An agreement for maintenance and other
664 services entered into pursuant to this section must provide for
665 full reimbursement for services rendered for qualifying
666 projects.

667 (d) A private entity of a qualifying project may provide
668 additional services for the qualifying project to the public or
669 to other private entities if the provision of additional
670 services does not impair the private entity's ability to meet
671 its commitments to the responsible public entity pursuant to the
672 comprehensive agreement.

673 (11)~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the
674 expiration or termination of a comprehensive agreement, the
675 responsible public entity may use revenues from the qualifying
676 project to pay current operation and maintenance costs of the

677 qualifying project. If the private entity materially defaults
678 under the comprehensive agreement, the compensation that is
679 otherwise due to the private entity is payable to satisfy all
680 financial obligations to investors and lenders on the qualifying
681 project in the same way that is provided in the comprehensive
682 agreement or any other agreement involving the qualifying
683 project, if the costs of operating and maintaining the
684 qualifying project are paid in the normal course. Revenues in
685 excess of the costs for operation and maintenance costs may be
686 paid to the investors and lenders to satisfy payment obligations
687 under their respective agreements. A responsible public entity
688 may terminate with cause and without prejudice a comprehensive
689 agreement and may exercise any other rights or remedies that may
690 be available to it in accordance with the provisions of the
691 comprehensive agreement. The full faith and credit of the
692 responsible public entity may not be pledged to secure the
693 financing of the private entity. The assumption of the
694 development or operation of the qualifying project does not
695 obligate the responsible public entity to pay any obligation of
696 the private entity from sources other than revenues from the
697 qualifying project unless stated otherwise in the comprehensive
698 agreement.

699 (12) ~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive
700 the sovereign immunity of a responsible public entity, an
701 affected local jurisdiction, or an officer or employee thereof
702 with respect to participation in, or approval of, any part of a

703 qualifying project or its operation, including, but not limited
704 to, interconnection of the qualifying project with any other
705 infrastructure or project. A county or municipality in which a
706 qualifying project is located possesses sovereign immunity with
707 respect to the project, including, but not limited to, its
708 design, construction, and operation.

709 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

710 (a) A responsible public entity may provide a copy of its
711 comprehensive agreement to the Department of Management
712 Services. A responsible public entity must redact any
713 confidential or exempt information from the copy of the
714 comprehensive agreement before providing it to the Department of
715 Management Services.

716 (b) The Department of Management Services may accept and
717 maintain copies of comprehensive agreements received from
718 responsible public entities for the purpose of sharing
719 comprehensive agreements with other responsible public entities.

720 (c) This subsection does not require a responsible public
721 entity to provide a copy of its comprehensive agreement to the
722 Department of Management Services.

723 (14)-(15) CONSTRUCTION.—

724 (a) This section shall be liberally construed to
725 effectuate the purposes of this section.

726 (b) This section shall be construed as cumulative and
727 supplemental to any other authority or power vested in or
728 exercised by the governing body ~~board~~ of a county, municipality,

729 special district, or municipal hospital or health care system
730 including those contained in acts of the Legislature
731 ~~establishing such public hospital boards or s. 155.40.~~

732 (c) This section does not affect any agreement or existing
733 relationship with a supporting organization involving such
734 governing body ~~board~~ or system in effect as of January 1, 2013.

735 (d)-(a) This section provides an alternative method and
736 does not limit a county, municipality, special district, or
737 other political subdivision of the state in the procurement or
738 operation of a qualifying project ~~acquisition, design, or~~
739 ~~construction of a public project~~ pursuant to other statutory or
740 constitutional authority.

741 (e)-(b) Except as otherwise provided in this section, this
742 section does not amend existing laws by granting additional
743 powers to, or further restricting, a local governmental entity
744 from regulating and entering into cooperative arrangements with
745 the private sector for the planning, construction, or operation
746 of a facility.

747 (f)-(e) This section does not waive any requirement of s.
748 287.055.

749 Section 2. This act shall take effect July 1, 2016.